

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**A.W., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Seattle, WA, Employer**

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**Docket No. 20-1362  
Issued: April 30, 2021**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:

ALEC J. KOROMILAS, Chief Judge  
JANICE B. ASKIN, Judge  
PATRICIA H. FITZGERALD, Alternate Judge

On July 2, 2020 appellant filed a timely appeal from a June 26, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 20-1362.<sup>1</sup>

On May 22, 2020 appellant, then a 40-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that she developed pain in right side of her back, under the shoulder blade and neck due to factors of her federal employment, including repetitive heavy lifting, suggesting that it may be due to increase in the volume of work. She noted that she first became aware of her condition and its relationship to her federal employment on April 20, 2020. Appellant stopped work on May 6, 2020 and returned on May 9, 2020 with restrictions.

In a development letter dated May 26, 2020, OWCP informed appellant that the evidence of record was insufficient to establish her claim. It advised her of the type of factual and medical evidence needed and attached a questionnaire for her completion. A separate development letter

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<sup>1</sup> The Board notes that, following the June 26, 2020 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

of even date was sent to the employing establishment requesting information surrounding the circumstances of the alleged injury. OWCP afforded both parties 30 days to respond.

In a May 6, 2020 report, Dr. Jessica Bloom, specializing in family medicine, noted that appellant was seen for right shoulder pain due to no specific injury. She related that appellant performed a significant amount of repetitive heavy lifting at work. Dr. Bloom further indicated that while appellant was left handed, she performed more work with her right arm, and her deliveries had increased because of COVID-19. She noted that appellant complained of pain with lifting overhead and reaching into the shoulder, right upper back, and neck, as well as headaches. Dr. Bloom diagnosed right shoulder strain.

OWCP received a May 6, 2020 duty status report (Form CA-17) from Dr. Bloom who noted that appellant had sustained injury due to repetitive shoulder motion, and prescribed restrictions. In another form report dated May 6, 2020, Dr. Bloom related that appellant's date of injury was approximately April 15, 2020. She noted work restrictions and that appellant's right shoulder motion was reduced by 15 degrees for external rotation and abduction beyond 90 degrees was limited by pain.

OWCP received a May 8, 2020 referral for physical therapy.

In a June 9, 2020 report, Dr. Robert Honey, a Board-certified family practitioner, noted that appellant was seen for a follow-up visit due to a right shoulder strain. He recommended continued physical therapy and referral to a chiropractor.

On June 25, 2020, OWCP received June 15, 2020 physical therapy notes, which noted that appellant's "symptoms are still primarily exacerbated by work activity, with extensive mail delivery going on during the [COVID-19] crisis."

By decision dated June 26, 2020, OWCP denied appellant's occupational disease claim. It noted receipt of a May 8, 2020 medical note and a Form CA-17 dated May 6, 2020. OWCP found that appellant had not established fact of injury as the claimed work factors remained unclear.

The Board has duly considered the matter and finds that the case is not in posture for a decision. In the case of *William A. Couch*,<sup>2</sup> the Board held that, when adjudicating a claim, OWCP is obligated to consider all evidence properly submitted by a claimant and received by OWCP before the final decision is issued.

In its June 26, 2020 decision, OWCP indicated that the evidence received included a May 8, 2020 note and a Form CA-17 dated May 6, 2020. However, appellant also submitted several May 6, 2020 reports from Dr. Bloom, and June 15, 2020 physical therapy notes which reference appellant's specific work factors. As OWCP did not reference these additional medical

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<sup>2</sup> 41 ECAB 548 (1990); *see also R.D.*, Docket No. 17-1818 (issued April 3, 2018).

reports, it failed to follow its own procedures which require that all evidence submitted should be reviewed and discussed in the decision.<sup>3</sup>

It is crucial that OWCP reference all relevant evidence received prior to the issuance of its decision, as the Board's decisions are final with regard to the subject matter appealed.<sup>4</sup> The Board finds that this case is not in posture for decision, as OWCP did not address the above-noted evidence in its June 26, 2020 decision.<sup>5</sup> On remand, following any further development as deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

**IT IS HEREBY ORDERED THAT** the June 26, 2020 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: April 30, 2021  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>3</sup> All evidence submitted should be reviewed and discussed in the decision. Evidence received following development that lacks probative value should also be acknowledged. Whenever possible, the evidence should be referenced by author and date. Federal (FECA) Procedure Manual, Part 2 -- Claims, Initial Denials, Chapter 2.1401.5(b)(2) (November 2012); A.C., Docket No. 20-0917 (issued January 27, 2021).

<sup>4</sup> See *D.S.*, Docket No. 20-0589 (issued November 10, 2020); *C.S.*, Docket No. 18-1760 (issued November 25, 2019); *Yvette N. Davis*, 55 ECAB 475 (2004); see also *William A. Couch*, *supra* note 2.

<sup>5</sup> *M.J.*, Docket No. 18-0605 (issued April 12, 2019); see *V.C.*, Docket No. 16-0694 (issued August 19, 2016).